UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/457,847	12/09/1999	TOAN TRINH	7114	8139

27752 7590 02/28/2005

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER	
MOORE, MARGARET G	

ART UNIT	PAPER NUMBER
1712	

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/457,847	TRINH ET AL.	
	Examiner	Art Unit	
	Margaret G. Moore	1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *14, 15, 33 to 42, 45, 46, 48 to 50, 56, 60 to 66* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *14, 15, 33 to 42, 45, 46, 48 to 50, 56, 60 to 66* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. Applicants have amended the claims by deleting the pH requirement and inserting the particle droplet diameter requirement. The droplet diameter requirement was present in original claim 1. Thus the following rejection is comparable to that noted in the office action dated 9/25/02.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claim 56 is objected to because of the following informalities: In section (A), "alochol" is a misspelling. Appropriate correction is required.

4. Claims 14, 15, 33 to 38, 45, 46, 56 and 63 to 66 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Vogel et al. (5,532,023, of record).

As noted in the office action of 9/25/03, Vogel et al. teach wrinkle reducing compositions. See column 4, line 40 through column 5, which teaches a shape retention polymer meeting component (A), including Tg requirements and amounts. This also meets the requirements of claims 14 and 15. Starting on column 13 Vogel et al. teach packaging for this composition, meeting the requirement of an article of manufacture. Columns 13 and 14 teach the spray dispensers of claims 45 and 46.

Vogel et al. fail to expressly teach a particle diameter size of from about 10 to about 120 microns. Column 13, line 32, teaches that a particle size of less than 200 microns is preferred. The various dispensers taught on column 13 and 14 are the same as those disclosed by the specification as operable spray dispensers which result in particle sizes of from about 10 to about 120 microns.

In view of the fact that the preferred sprayers of Vogel et al. are the same as the preferred sprayers used by applicants to obtain the required particle diameter, and that the particle size is inherently associated with the sprayer, it naturally follows that a composition being packaged and sprayed from the same sprayer will inherently have the same particle size, especially when the compositions are the same as in the instant

case. The particle size requirement of the claimed composition would appear to be inherently met by the composition of Vogel et al. in view of the fact that both compositions are being sprayed by the same sprayer. Note for instance that a preferred sprayer in Vogel, Guala® is preferred because of its fine uniform spray characteristics (column 15, line 26). This is also a preferred sprayer of applicants.

On the other hand, the particle diameters disclosed on column 13 in Vogel et al. embrace that claimed and one having ordinary skill in the art would have found the broadly claimed particle size range to have been within routine experimentation of the teachings of Vogel et al. Note that it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art (i.e. does not require undue experimentation).

For claims 33 to 37, note column 8, line 41, through column 9, line 35.

For claim 38, see column 12, lines 40 to 50.

Column 5, lines 53 to 60, teach concentration levels of the shape retention polymer that meet claim 63. Note too the top of column 13 which teaches "concentrated" compositions.

5. Claims 39 to 42, 49, 50 and 60 to 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel et al.

For claims 39 to 42, note the teachings on the bottom of column 12 which teaches the optional addition of ethanol, propanol and isopropanol.

The obviousness of including a set of instructions has been discussed, for instance in paragraph 9 of the office action dated 9/25/02 and in paragraph 3 of the office action dated 5/4/04. The Examiner maintains the rationale detailed therein and as such claims 49, 50 and 60 to 62 are rendered obvious. For claim 60, note the cyclic nitrogen and quaternary compounds taught on column 11. The skilled artisan would have been motivated to add such compounds to the composition of Vogel et al., thereby rendering obvious this claim. The Examiner notes that these compounds are taught as being antistatic agents rather than antimicrobials, but a prima facie case of obviousness (for a composition) does not require the solution of the same problem or recognition of

the same advantages as the applicants invention. For claim 61, see the surfactant on column 9, lines 1 to 20.

6. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel et al. as applied to claims 46 and 56 above, and further in view of Davis.

Vogel et al. fail to teach a non-manual spray dispenser.

Davis teaches a method of coating a fabric, said method avoiding the accumulation of static charges (column 1, lines 30 to 35). This method involves coating the fabric with an electrostatic sprayer.

It is prima facie obvious to substitute equivalents, motivated by the reasonable expectation that the respective species will behave in a comparable manner or give comparable results in comparable circumstances. The express suggestion to substitute one equivalent for another need not be present to render the substitution obvious. In the instant situation, electrostatically spraying a coating on a fabric would appear to be a functional equivalent of manually spraying a coating on a fabric since the end result, a coated fabric, would appear to be comparable. Note too that the electrostatic spraying has a benefit of reducing static build up. Thus one having ordinary skill in the art of coating fabrics would have found it obvious to use equivalent alternatives to the manual spraying taught in Vogel to affect spraying of the composition therein on fabric. Since the skilled artisan would have had a reasonable expectation of success in replacing the manual spraying in Vogel et al. with electrostatic spraying, as taught in Davis, this claim is rendered obvious.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday to Wednesday and Friday, 10am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Margaret G. Moore
Primary Examiner
Art Unit 1712

mgm
2/26/05